

# TIM CULLEN

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## Testimony of Sen. Tim Cullen

### Senate Bill 427 Anti-Cyberbullying Act

Chairman Olsen, thank you for scheduling this bill for a public hearing. I appreciate the opportunity to move this bill forward.

In a nutshell, this bill addresses a type of bullying that existing law does not address: cyberbullying. Existing law specifically applies to schoolyard bullying. More and more, we are hearing that bullying that occurs away from school – on home computers, mobile phones and tablets for example – creates a hostile environment at school for the boy or girl who is the target of the torment. This bill says that type of off-campus bullying can be subject to school discipline.

Last session, the Legislature approved a bill developed by the Special Committee on School Safety. The bill contained a section related to bullying in schools. The language in the bill mirrored language in a stand-alone bill authored by Sen. Kedzie.

Sen. Kedzie deserves much of the credit for the bullying law we have today in Wisconsin.

My bill addresses an aspect of bullying that schools may feel they don't have the authority to deal with. And that is bullying via social media and texting .... known as cyberbullying.

Current law requires school districts to adopt a policy prohibiting bullying by pupils.

Current law also requires the Department of Public Instruction to have a model school policy on bullying. That model school policy must contain a definition and prohibition of bullying.

But current law does not make it clear that schools can and should take disciplinary action when off-campus bullying creates a hostile learning environment at school. This bill does.

The bill before us today makes **four changes to state statutes** to better address bullying that occurs by electronic means.

-OVER-

**First**, DPI's model school policy must include a definition of bullying by electronic means, such as texting, FaceBook, and Twitter.

**Second**, DPI's model school policy must contain a provision requiring the school district to maintain records on bullying incidents and the number and types of reports made on bullying incidents.

**Third**, DPI's policy must contain a provision stating that bullying that occurs off school grounds and away from school events can be disciplined "if the bullying creates a hostile environment at school for the pupil being bullied or substantially disrupts the orderly operation of a school or school-sponsored event."

**Finally**, this bill changes our existing law against unlawful use of computer equipment. Existing law prohibits *sending* a message via e-mail or other computerized communication system with intent to frighten, intimidate, threaten, abuse, or harass another person. This bill adds "*posting* a message electronically where other persons can view the message."

Now, I know this bill is not a cure-all. Parents have to learn how to look for cyberbullying, and students have to be encouraged to report it. Schools have to have the resources to address all types of bullying.

Kids will likely continue to be mean to other kids. But what this bill does do is codify in statutes that the new form of bullying .... The new form of intimidating, harassing, frightening and tormenting other students ... is something that schools can and should address.

After I started working on this bill, a young woman from my district contacted me and told me about her experience as a victim of cyberbullying. She wrote about her experience for a class, and her teacher encouraged her to contact her State Senator: Me.

Janelle's story is a compelling one for why we need to let our schools know that even if the actual conduct occurred off school grounds, schools should intervene if it creates a hostile learning environment.

I have the greatest admiration for Janelle for being willing to share her story in order to help so many other kids she doesn't even know.

I can let you know *about* the bill, but Janelle is the one who can tell you *why* it is needed.

Thank you, and I would be happy to take questions.



# JOE KNILANS

STATE REPRESENTATIVE • 44<sup>TH</sup> ASSEMBLY DISTRICT

February 28, 2012

First of all, I would like to thank you, Chairperson Oslen and all of the other committee members, for allowing me to testify on SB-427 today.

- There is nothing more terrifying for a school child than a bully.
- Bullying used to be confined mostly to playgrounds. That's no longer the case. Social networking sites and text messaging have enabled bullies to continue bullying long after students have left the playground. Now it can take place 24x7.
- Law enforcement officers say a bullying case comes up easily two to three times a week in Janesville, my hometown.
- However, it's not just a problem in one town or another; it's a problem wherever people can connect electronically. That means it's happening not only in Janesville but also throughout our state.
- It affects elementary and middle school children as well as high school students. It affects all races. It affects boys and girls.
- It is particularly hurtful, because kids will text message and post things online they would never say in person. The playground saying, "Sticks and stones can break my bones, but words can never hurt me," isn't entirely true.
- Students who are victims of cyberbullyies often find it difficult to do their best at school. They may feel unwelcome and unsafe. Some experience physical effects, including stomachaches and headaches.
- In other cases, the results are far worse.
- After being cyberbullied for two hours, Megan Meier, a 13 year-old girl from Florida, rushed to her bedroom. Twenty minutes later, her mother went to check on her and found that Megan had hung herself in the closet.



- Bullying affects all of us, because when bullies become adults they carry these behaviors into adulthood with them.
- This bill is an important step forward, because it specifically permits schools to discipline cyberbullies who create a hostile environment for other students at school. Stopping cyberbullying at an early age may help reduce the incidence of it when students move into adulthood.
- Thank you for the opportunity to testify on this important bill. I would be happy to take questions.





**Testimony on SB427**  
**Senate Education Committee**  
**Shel Gross, Director of Public Policy**  
**Mental Health America of Wisconsin**

Mental Health America of Wisconsin (MHA) supports SB427.

One of the hats I wear is that of Co-Chair of Wisconsin's statewide suicide prevention coalition, Prevent Suicide Wisconsin. Research generally suggests that both victims and offenders involved in bullying are at an elevated risk for suicide, with victims experiencing a somewhat greater risk. The research also suggests that the impact of bullying on suicide is mediated by the existence of some sort of psychopathology. That is, bullying in the absence of an existing mental disorder does not increase suicide risk. But for young people who are already struggling, bullying does increase suicide risk.

For this reason, MHA supported the legislation requiring schools to adopt bullying policies and promotes implementation of anti-bullying curriculum as part of our suicide prevention practices. We commend the Department of Public Instruction (DPI) for the work they have done in this area. This legislation essentially codifies DPI's current practice, because they do include electronic bullying in their definition of bullying and also do define procedures for reporting.

It is noteworthy that DPI announced last week the results of the 2011 Youth Risk Behavior Survey, which for the first time asked about cyber bullying. DPI reported that seventeen percent of students said they were electronically bullied in the past year through e-mail, chat rooms, instant messaging, websites, or texting. Forty-four percent of students said that bullying and harassment were problems at their schools.

We also support the changes to 947.0125, which essentially update current law to incorporate new types of electronic social media not anticipated when the initial legislation was passed.

In my role as co-chair of Prevent Suicide Wisconsin, I often receive calls requesting information about suicide and suicide prevention. Last week I received a call from a reporter in Eau Claire who was researching a story related to a 12 year old who had completed suicide, reportedly subsequent to cyber bullying. I don't know what her school had done already to address cyber bullying nor can I sit here and tell you this law would have prevented her death. But it is clear that we need to continue to strengthen our efforts to address bullying in all its forms to create safe school climates and to protect vulnerable youth.

I urge that you vote for this bill.





## Senate Bill 427 ■ Anti-Cyberbullying Act

In a nutshell, this bill addresses a type of bullying that existing law does not address: cyberbullying. Existing law specifically applies to schoolyard bullying. More and more, we are hearing that bullying that occurs away from school – on home computers, mobile phones and tablets for example – creates a hostile environment at school for the boy or girl who is the target of the torment. This bill says that type of off-campus bullying can be subject to school discipline.



**Current law** requires school districts to adopt a policy defining & prohibiting bullying by pupils.

**This bill** says the definition must include bullying by electronic means.

**Current law** requires the Department of Public Instruction to write a model school policy on bullying, which it did. That model school policy contains 10 required components, which are listed on the back side. Items 8 through 10 make reference to school-related events, school property, and school vehicles where bullying is prohibited.

**This bill** adds Item 11, which provides that DPI's model school policy must contain a requirement that a school board maintain records on the number and types of bullying incidents and the discipline imposed on the offender. The school board must prepare an annual incident report and post it to its web site.

**This bill** adds Item 12 which (in the amendment described below) provides that DPI's model school policy must contain a statement that a school board may discipline a pupil if the bullying creates a hostile environment at school for the pupil being bullied or substantially disrupts the orderly operation of a school or school-related event.

**Current law** makes it a misdemeanor to use a computerized communication system to frighten, intimidate, threaten, abuse or harass another person. The language talks about "sending" and "receiving" messages.

**This bill** adds "posting" and "viewing" to make sure that the law applies to messages posted on walls or bulletin boards for many eyes to view.

### Senate Amendment 1 by Senator Cullen

**This amendment** strengthens the language relating to bullying that occurs away from school grounds, at school functions, and in school vehicles.

**This amendment** requires DPI's model school policy to contain a statement that says a school board may prohibit bullying and reasonably discipline pupils who bully away from school and school activities "if the bullying creates a hostile environment at school for the pupil bullied or substantially disrupts the orderly operation of a school or school-related event."

**This amendment** also makes the record-keeping of bullying incidents and disciplinary actions apply to all incidents of bullying, not just cyberbullying.

**118.46 Policy on bullying. (1)** By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

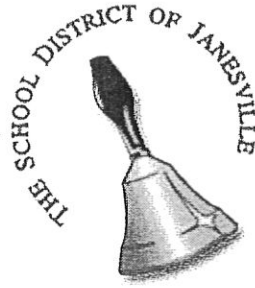
1. A definition of bullying.
2. A prohibition on bullying.
3. A procedure for reporting bullying that allows reports to be made confidentially.
4. A prohibition against a pupil retaliating against another pupil for reporting an incident of bullying.
5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.
6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.
7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.
8. An identification of the school-related events at which the policy applies.
9. An identification of the property owned, leased, or used by the school district on which the policy applies.
10. An identification of the vehicles used for pupil transportation on which the policy applies.

(b) Develop a model education and awareness program on bullying.

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site.

**(2)** By August 15, 2010, each school board shall adopt a policy prohibiting bullying by pupils. The school board may adopt the model policy under sub. (1) (a). The school board shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all pupils enrolled in the school district and to their parents or guardians.

**History:** 2009 a. 309.



**Testimony of Dr. Yolanda M. Cargile  
Director of At-Risk & Multi-Cultural Programs**

Public Hearing on Senate Bill 427  
Senate Committee on Education

February 28, 2012

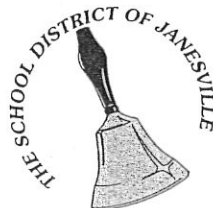
Thank you, Chairman Olsen and members of the Senate Committee on Education. I appreciate the opportunity to speak to you today about the School District of Janesville's support for Senate Bill 427, the Anti-Cyberbullying Act.

SB 427 creates a greater sense of accountability and ultimately is in the best interest of children. In Janesville, we have been proactive on this issue. The School District revised its bullying prevention policy in June 2011 to prohibit acts of cyberbullying. I have included a copy of Janesville School District's policy for your review.

Janesville School District's policy also addresses acts of bullying that originate off school premises and are disruptive to the educational environment. The policy states that the administration has the authority to intervene and address the situation.

SB 427 increases safety for students, and the Janesville School District urges your support.

**Dr. Yolanda M. Cargile**  
Director of At-Risk &  
Multi-Cultural Programs



**School District of Janesville**

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## STUDENTS

### BULLYING PREVENTION

The School District of Janesville Board of Education strives to provide an educational environment where every student feels safe, respected and welcomed. The Board also strives to provide an educational environment where every staff member can serve students in a atmosphere that is free from significant disruptions and obstacles that impede learning and performance. Bullying can have harmful social, physical, psychological and/or academic effects for those who engage in these behaviors, victims of such behaviors, and bystanders who observe acts of bullying. The District prohibits any form of bullying behavior by students towards other students, school employees, volunteers, or any other person(s).

Bullying includes aggressive or hostile behavior that is intentional and involves an imbalance of power between the bully and the bullied. Bullying is a form of victimization and is not necessarily a result of or part of an on-going conflict. Bullying is defined as any conscious, willful, or deliberate acts, or attempted acts, through the use of words, images, gestures or other physical actions, including electronically transmitted acts, that are intended to cause physical injury, emotional distress or property damage. Bullying includes, but is not limited to, behaviors motivated by an actual or perceived distinguishing characteristic or factor including sex, race, national origin, ancestry, religion, color, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability. Bullying may also be motivated by any other distinguishing factor such as gender identity, physical appearance, or social, economic or family status.

Examples of acts of bullying include physical intimidation, force or assault, humiliation, sexual or racist remarks, extortion, verbal or written threats, taunting, put downs, name calling, threatening or menacing looks or gestures, spreading cruel rumors, and social exclusion. This includes acts of cyber-bullying that involve sending or posting inappropriate, insulting or threatening messages or images through electronic communication systems such as the Internet, e-mail, cell phones or other personal devices.

Bullying is prohibited on District grounds, at District-related activities, or on transportation to and from school or District-sponsored activities. Harassing bullying behavior is prohibited in all educational environments, regardless of whether the facility or location is owned, leased, or otherwise used or provided by the District.



## STUDENTS

### BULLYING PREVENTION

Acts of bullying that originate off school premises and outside of the school's control may be subject to the provisions of this policy and related procedures if the conduct is determined to be substantially disruptive to the educational process and the day-to-day operations of a school. This includes, but is not limited to, threats made outside of school hours that communicate intent to be carried out during any school-related or school-sponsored program or activity, or on any vehicles used for transportation to and from school and school-sponsored activities.

All complaints about bullying shall be promptly investigated. The District shall respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as practicable and in a manner consistent with the Board's legal obligations to investigate, take appropriate action, and conform to discovery or disclosure requirements. Disclosure of information related to the complaint shall be made only to those with a legitimate need to know. All records generated as a result of the complaint and appeal processes shall be maintained as confidential to the extent permitted by law.

If the investigations finds bullying has occurred, school officials shall take prompt and necessary action up to and including behavioral interventions and support, disciplinary action, and/or referral to law enforcement officials or social services. Consequences shall be unique to the nature of the behavior, the developmental level of the student, and the history of problem behaviors. Remedial measures shall be designed to correct the problem behavior, prevent other occurrences, and protect the victim.

The District shall also take appropriate action against any student or District employee who retaliates against any person who makes a good-faith report of alleged bullying or against any person who testifies, assists, or participates in an investigation or hearing related to such behavior.

Employees found to have facilitated or participated in bullying behavior against students or to have been aware that bullying was taking place and failed to report the behavior are considered to be in violation of the prohibition expressed by this policy and may be subject to disciplinary action.

This policy shall be distributed annually to all students enrolled in the School District, parents/guardians, and all District employees. It shall also be distributed to organizations in the community having cooperative agreements with the schools. The District shall provide a copy of the policy to any person upon request.





STUDENTS

BULLYING PREVENTION

Records shall be maintained on the number and types of reports made, and sanctions imposed for violations of this policy in accordance with established procedures.

REF: State Statute 111.31  
State Statute 115.28(31)  
State Statute 118.01(2)(d)8  
State Statute 118.02(9t)  
State Statute 118.13  
State Statute 118.155  
State Statute 118.195  
State Statute 118.20  
State Statute 120.13(1)  
State Administrative Code PI 9  
State Administrative Code PI 41  
State Criminal Statutes 947.0125  
State Criminal Statutes 947.013  
State Criminal Statutes 948.51(2)  
Title IX, Education Amendments of 1972  
Title VI, Civil Rights Act of 1964  
Section 504 of the Rehabilitation Act of 1973  
Civil Rights Act of 1991  
Individuals with Disabilities Education Act

CROSS REF:

Board Policy 5020, Student Nondiscrimination  
Administrative Regulation 5020.1, Public Notification of Student Nondiscrimination Policy  
Administrative Regulation 5020.2, Student Discrimination Complaint Procedure  
Administrative Regulation 5020.3, Student Discrimination Incident Report  
Board Policy 5021, Sexual Harassment  
Administrative Regulation 5021.1, Complaint Procedures Relative to Sexual Harassment  
Administrative Regulation 6724.1, Guidelines/Use of Technology by Students and Staff  
Administrative Regulation 6724.2, Student Internet Access and Safe Use



## TESTIMONY: **AGAINST SB427**

Loretta Baughan, N1166 High Ridge Rd, Merrill WI 54452  
Wisconsin Senate Committee on Education Hearing, February 28, 2012

### **SB427: EXPANSION of ANTI-BULLY SCHOOL LAW**

Certainly, it is the duty of a school district to ensure student safety and a bully-free environment conducive to learning. Our school district's anti-bullying policy already includes prohibitions on cyber-bullying for both students and employees. Should an incident occur where the source of the attack originated off premises the school district refers the complaint to the appropriate law enforcement agency.

The requirement in SB427 of school districts to prepare annual bullying reports only adds another layer of bureaucracy while increasing our costs and paperwork burden through the tracking and compiling of this data. Having to post it on our website, particularly when we would also be obligated to include off site bullying incidents, could cause a negative distortion of the public's perception, in spite of the fact we may be doing an exemplary job of maintaining a bully-free environment at school.

Exactly what constitutes "appropriate responses to bullying that occurs off school grounds"? Whose job is it to determine if the so-called bullying incident "creates a hostile environment for the pupil bullied" or "infringes on the rights of the pupil"? Because Wisconsin Statute 947.0125(3)(a) indicates it only takes an "intent to harass, annoy, or offend another person" and if "lewd" or "profane language" is used, the standard is met to consider such actions an incident of criminal bullying. Intent can be difficult to prove. Why is annoying or offending another person with a profane word or lewd comment a crime? SB427 would further compound the senselessness of this law by elevating the act of posting such a message - without directing it any particular person - as a new criminal act.

Hypothetically, a student could post an offhanded remark to a facebook page which includes a four-letter word, then, if another student reads it and is annoyed or offended, a crime has been committed. This would become a Class B forfeiture punishable by a fine up to \$1,000. How absurd.

If what a person says online can be controlled to the extent of declaring profane or lewd comments which annoy or offend another as illegal, why limit it to electronic or computerized means of communication?

What about speech exercised during protests? Couldn't the noise and chanting be considered annoying and some of the messages voiced, offensive? SB427 and existing statutory language are a slippery slope for free speech and in violation of the First Amendment to the US Constitution and Article I, Section 3 of the Wisconsin Constitution.

*"Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press."--Wisconsin State Constitution, Article I, Section 3.*

It is only when we uphold the free speech rights of those we disagree with, that we may remain a free nation. For these reasons, I urge you to withhold support from this deeply flawed bill and consider a redraft of Wisconsin Statute 947.0125(3)(a) to correct its abridgment of free speech.



## **Comments on Proposed Changes to Wisconsin's Bullying Law (2011 Senate Bill 427)**

Justin W. Patchin, Ph.D.

Associate Professor of Criminal Justice, University of Wisconsin-Eau Claire

Co-director, Cyberbullying Research Center

February 24, 2012

### **Introduction**

I have spent over a decade researching adolescent bullying, with a specific focus on cyberbullying. As co-director of the Cyberbullying Research Center, I travel across the United States, and abroad, educating school officials, parents, law enforcement officers, other adults who work with youth, and the teens themselves about using technology safely and responsibly. In the last two years I have spoken to over 60,000 people on this topic. I have also authored twenty refereed journal articles and four books, including three on the topic of cyberbullying and teen technology misuse. Finally, I am very familiar with most of the bullying laws across the United States having authored and regularly updated a fact sheet on our web site ([www.cyberbullying.us](http://www.cyberbullying.us)) entitled "A Brief Review of State Cyberbullying Laws and Policies."

Forty-eight states now have bullying laws in place or scheduled to be implemented in 2012. Wisconsin was one of the more recent states to adopt a bullying law (Wisconsin Act 309; 2009 Senate Bill 154), which took effect in May of 2010. The law required, among other points, that schools adopt bullying policies by August 15, 2010. While the existing law is useful to the extent that it publicly denounces bullying and requires the Department of Public Instruction (DPI) to develop a model policy that *may* be adopted by schools, it falls short on a number of levels. The currently proposed changes, while a small step forward, do not significantly address the concerns which I present below.

### **Weaknesses of Wisconsin's Existing Bullying Law**

One major shortcoming of Wisconsin's existing bullying law is that it simply directs the DPI to create a model bullying policy. That policy may or may not be adopted by schools. Schools must have a bullying policy in place, but the elements of that policy could vary significantly from school to school. While many schools may elect to adopt the model policy as developed by the DPI, they are not required to. I do believe that every school should have the flexibility to develop a policy that is appropriate for their needs, but it would be better to require certain elements to be included in all school policies across the state, including a comprehensive definition of bullying (that includes cyberbullying), procedures for reporting and investigating, appropriate consequences, as well as others listed in 118.46 sub. (1) (a) 1-10.

Another significant problem with the current law is that it does not explicitly mention cyberbullying or other forms of electronic harassment. While cyberbullying is a subset of bullying, the law does not even provide a definition of what bullying is and leaves this up to the



DPI and individual districts. Specifically acknowledging cyberbullying as a unique form of bullying that requires response is important given its prevalence and impact on 21<sup>st</sup> Century schools.

Finally, there is nothing in current law that acknowledges the school's ability to intervene or reasonably respond to incidents of bullying that occur off school grounds. Many schools across the state wrongly believe that if bullying occurs away from school there is nothing that the school can do to respond. Longstanding case law gives schools the authority to respond to off campus behaviors that disrupt the learning environment at school.

In the landmark case *Tinker v. Des Moines* (1969) the Supreme Court stated: "it can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate..." and that only speech or behavior which "materially and substantially interfere(s) with the requirements of appropriate discipline in the operation of the school" are subject to discipline. *Barr v. Lafon* (2007) clarified that schools need not wait for a disruption to occur before intervening and that if they can articulate a clear threat to the order of the school than can take appropriate actions. We know from *Thomas v. Board of Education, Granville Central School District* (1979) that student speech that occurs away from school is generally more protected than the speech that occurs at school, but several recent cases have demonstrated that off campus behaviors and speech are subject to school discipline, if the behavior or speech: (1) substantially or materially disrupts the learning environment at school; (2) interferes with the educational process or school discipline; or (3) threatens or otherwise infringes on the rights of other students (see *J.S. v. Bethlehem Area School District*, 2000; *Wisniewski v. Board of Education of the Weedsport Central School District*, 2007; and especially *Kowalski v. Berkeley County Schools*, 2011). The key issue that has been addressed in many cases is that the behavior that occurs away from school results in (or has a likelihood of resulting in) a substantial disruption *at school* (see *Layshock v. Hermitage School District* and *Blue Mountain School District v. J.S.* which were both recently reviewed by the Third Circuit Court of Appeals [2011]). If a student is being harassed or threatened repeatedly by another student, whether online or at school, there is little question that the ability of that student to learn is being disrupted. As such, it is important that a bullying law includes this information so that schools know that they do in fact have the authority to respond.

### **Strengths of the Proposal**

The current bill does propose some modest improvements to Wisconsin's bullying law, especially by requiring that the DPI model policy include bullying by "electronic means." This may be superfluous as the existing model policy already includes "sending insulting messages or pictures by mobile phone or using the internet – also known as cyber bullying." It also encourages the model policy to include information about responding to bullying behaviors that occur off school grounds. The amendment which includes language that a school board may prohibit bullying that occurs away from school that creates a hostile environment at school for the pupil bullied or substantially disrupts the orderly operation of the school is exactly what is needed. However, this leads me to the major weakness of current law and the proposed bill.



## **Weaknesses of the Proposal**

The primary problem with the proposed bill, and indeed the existing law, is that it is only a mandate to the DPI to include certain elements in a model policy and not a requirement for schools to include any of these elements in their respective bullying policies. Schools are not required to modify their policies at all – they are only required to have a policy (irrespective of its content and effectiveness). The proposal also states that the DPI model policy must include “appropriate responses to bullying that occurs off school grounds in certain circumstances.” While it is nice to see that the proposal acknowledges the school’s authority to respond to off campus behaviors, what exactly are the “circumstances” where this is appropriate? If this could be clarified in the DPI policy, it would strengthen the understanding of the necessary conditions particularly if specific language was included in the law (see below). The proposed amendment is a significant step in the right direction but only to the extent that it clarifies that what the law is talking about are those off campus incidents that create a hostile environment or that substantially disrupt the learning environment.

## **Recommendations**

My concern with the proposal is that it doesn’t go far enough. I urge the legislature to adopt even stronger language clearly demonstrating that any and all forms of bullying, no matter where it occurs, that disrupts the ability of a student to learn, or that creates a hostile learning environment, is subject to reasonable school discipline. Specifically, I urge the legislature to adopt a modified version of New Hampshire’s recently-passed bullying law (HB 1523):

“Schools have the authority and responsibility to apply reasonable and educationally-based discipline, consistent with a pupil’s constitutionally granted privileges, to bullying that: (a) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or (b) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil’s educational opportunities, creates a hostile environment for that pupil or others, or substantially disrupts the orderly operations of the school or school-sponsored activity or event.”

Similar language has also been adopted in New Jersey and Connecticut law recently. I have modified it minimally to ensure that a student’s constitutionally protected speech is not infringed upon by threatening to discipline a student who is exercising protected speech. As *Tinker* clearly stated, students have free speech rights, but they are not free to disrupt the learning environment at school (create a disruption, threaten or infringe on the rights of others, etc.).

It is also important that *all schools* adopt policies that include elements such as those listed in current law (118.46). Alternatively, all schools should be required to adopt the minimum elements included in the DPI model policy.

I also encourage the legislature to provide resources to schools so that they can effectively implement the recommendations and/or requirements included in the law. Schools want to prevent and adequately respond to all forms of bullying and harassment and are simply looking for resources that they can use to assist in such efforts. For instance, the bill should provide staff development and training resources to the DPI, the CESAs or some other state educational training service providers in order for school officials to learn about the law and about how to respond to cyberbullying more effectively.

If I can be of assistance in the further development of this law, please do not hesitate to call upon me.

Justin W. Patchin, Ph.D.  
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For more information:

Cyberbullying Research Center ([www.cyberbullying.us](http://www.cyberbullying.us))

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